

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013080801

ORDER DENYING STUDENT'S
REQUEST TO UNEXPEDITE
HEARING

On August 23, 2013, Parent on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a Due Process Hearing Request (complaint) against the Los Angeles Unified School District (District) as respondent. On August 27, 2013, OAH issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation (Scheduling Order). The Scheduling Order set this matter as to the expedited portion on September 12, 2013 for mediation, September 20, 2013 for the prehearing conference (PHC), and September 24 through September 26, 2013 for the due process hearing (DPH). The Scheduling Order also set the unexpedited portion on October 1, 2013 for mediation, October 11, 2013 for the PHC, and October 17, 2013 for the DPH.

On September 4, 2013, Student filed a request to unexpedite this matter and vacate the expedited dates. On September 5, 2013, the District filed a response a statement of non-opposition to Student's request.

APPLICABLE LAW

A parent of a child with a disability who disagrees with any decision by a school district regarding a change in educational placement of the child based upon a violation of a code of student conduct, or who disagrees with a manifestation determination made by the district, may request and is entitled to receive an expedited due process hearing. (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. § 300.532(a) (2006).) An expedited due process hearing before OAH must occur within 20 school days of the date the complaint requesting the hearing is filed. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532(c)(2) (2006).) The procedural right to an expedited due process hearing is mandatory and does not authorize OAH to make exceptions or grant continuances of expedited matters. (*Ibid.*) In sum, a matter can only be unexpedited or continued if no issue is alleged that is subject to an expedited hearing, or if the student withdraws the issues in the complaint that triggered the expedited hearing.

DISCUSSION

Student's complaint alleges five issues. Student contends that the District engaged in unlawful disciplinary actions by failing to properly document and provide notice of suspensions. In Issue four, Student contends that the District failed to find that Student's conduct, resulting in the December 11, 2012 expulsion order, was a manifestation of his suspected disability, Attention Deficit Hyperactivity Disorder (ADHD).

Student seeks to vacate the expedited hearing dates even though issues raised in the complaint are subject to an expedited time frame. Specifically, that the District failed to hold a manifestation hearing although school officials had suspected that Student was eligible for special education as he suffered from ADHD; and Student's conduct causing the discipline was a result of his ADHD. Once these issues are raised, the expedited hearing time frame applies. Accordingly, the motion to unexpedite the hearing dates must be denied.

ORDER

1. Student's request to unexpedite the hearing dates is denied.
2. The hearing shall proceed as scheduled.

Dated: September 6, 2013

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings